

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OSCAR RAMIREZ, JAVIER GUERRERO,
GERONIMO HERCULANO, PABLO RUTILIO,
MAGGIE ANDRES CRECENCIO, GUILLERMO ALVAREZ,
JUANA CRUZ HERNANDEZ, LEONIDAS MATEO,
ANYELI OVALLES HERNANDEZ, MIRNA REYES
MARTINEZ, RAMON ROSARIO, OMAR TAVERAS,
LUIS ESPINAL, and JUAN SALMERON on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

M L RESTAURANT, CORP., M.L. SAN JOSE ENTERPRISES, CORP.,
d/b/a LIBERATO RESTAURANT, ANTONIO MANUEL LIBERATO,
FERNANDO LIBERATO, VICTOR LIBERATO, NELSON GOMEZ,
LUCY GOMEZ, SARAH VALLEJO, NANA (LNU), and ROMEO (LNU)
jointly and severally,

Defendants

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State of New York)

) ss.:

County of New York)

No.: 14 -cv- 4030

Hon. Valerie E. Caproni

**AFFIDAVIT OF MIRNA REYES
MARTINEZ IN SUPPORT OF
PLAINTIFFS' REQUEST FOR
CONDITIONAL CLASS
CERTIFICATION**

MIRNA REYES MARTINEZ, residing at 2324 Morris Avenue, Bronx, New York, being
duly sworn, deposes and says:

1. From on or about January 19, 2011 to on or about May 4, 2014, I was employed
by Liberato Restaurant as a waitress. I had previously been employed by Liberato Restaurant and
had left on maternity leave in late September 2008.

2. Liberato Restaurant is an establishment with locations at 1 West 183rd St. and 10
West Burnside Avenue, County of the Bronx, State of New York.

3. I worked at the Burnside location, though I had worked at the 183rd St. location for some time when I was originally hired.

4. On the afternoon shift, a dozen or so other workers worked alongside me in the front of the house.

5. From on or about January 19, 2011 to on or about May 4, 2014, I regularly worked nine (9) hours a day, six (6) days a week, and was paid in \$240 cash at the end of each week.

6. Previously, before I left on maternity leave in September 2008, I regularly worked ten (10) hours a day, six (6) days a week, and was paid \$210 cash at the end of each week.

7. Soon after I started at Liberato I realized that I was not being paid minimum wage. I spoke to several other waitresses and counter people and we realized that none of us was being paid minimum wage, as we earned the same amount.

8. In addition to wages, I received a share of tips from the tip pool, paid daily.

9. After serving a table, I would receive a tip directly from customers. But as soon as I received them I was required to give all my tips to the manager, who held onto them until the end of the shift. At the end of the shift, the manager returned the tips to the workers and we divided them among ourselves.

10. No manager ever explained to me how the tip pool worked or why we had to pool tips.

11. Sometimes from the tip pool we had to pay tips to the sandwich maker or deli person even though they did not pay any tips into the pool and did not serve customers directly. The manager told us we must include them.

12. I never received any record of the tips I received from the pool, nor did any person in the pool.

13. In addition, I never received overtime for hours worked in excess of forty (40) per week, nor did my coworkers.

14. During my time at Liberato, I took breaks of no more than ten minutes, during which time I would quickly eat. This was true of all my coworkers.

15. At Liberato, I never received a statement of wages.

16. I have no reason to believe that my coworkers and I were subjected to different treatment in any regard.

WHEREFORE, it is respectfully urged that the request for conditional certification of a representative class be granted.

Sworn to before me this

26th
day of September 2014.



Notary Public


MIRNA REYES MARTINEZ

REBECCA T. ISHAK
Notary Public, State of New York
No. 01IS6286012
Qualified in Queens County
Commission Expires July 22, 2017